

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

PATRICK MISSUD,

No. C-12-5468 EMC

Plaintiff,

v.

**ORDER DENYING PLAINTIFF'S  
APPLICATION TO PROCEED *IN*  
*FORMA PAUPERIS* ON APPEAL**

STATE OF CALIFORNIA, *et al.*,

**(Docket No. 98)**

Defendants.

On February 5, 2013, this Court issued an order granting Defendants' motions to dismiss, and dismissing the complaint with prejudice. Docket No. 70. This Court subsequently denied two motions for reconsideration. Docket Nos. 81, 85. Plaintiff appealed on February 25, 2013. Docket No. 87. Plaintiff has now submitted an application to this Court for leave to proceed in forma pauperis on appeal to the Ninth Circuit Court of Appeals. Docket No. 98; Fed. R. App. P. 24(a).

When presented with an application to proceed *in forma pauperis*, a court must first determine if the applicant satisfies the economic eligibility requirement of 28 U.S.C. § 1915(a). *See Franklin v. Murphy*, 745 F.2d 1221, 1226 n.5 (9th Cir. 1984). Section 1915(a) does not require an applicant to demonstrate absolute destitution. *See McCone v. Holiday Inn Convention Ctr.*, 797 F.2d 853, 854 (10th Cir. 1982) (citing *Adkins v. E.I. Du Pont de Nemours & Co., Inc.*, 335 U.S. 331, 339 (1948)).

Plaintiff represents that he is currently a "pro-bono attorney who bankrolls others' cases" and that he thus has a negative net income. He notes that he has been "cashing-in stock to maintain my many cases." He has not worked for wages since 2009, when he made \$3000 per month as a general

1 contractor. His wife is employed and makes \$8000 per month. Plaintiff has a bank account with  
2 approximately \$200 in it, and he owns a number of cars and trucks, as well as motorcycles worth  
3 approximately \$10,000. Plaintiff lists just over \$5,500 in monthly expenses for rent, utilities, food,  
4 clothing, credit card bills, pet food, and pet medication. He additionally has approximately \$85,000  
5 in judgments against him from previous lawsuits. Though Plaintiff's debts and monthly expenses  
6 are not insignificant, his wife's monthly income is substantial, and exceeds the monthly expenses  
7 Plaintiff lists by more than two thousand dollars. Given this information, Plaintiff's application to  
8 proceed *in forma pauperis* is **DENIED**.


9 Additionally, Plaintiff has continued to file various letters and requests for judicial notice of  
10 certain documents with this Court since filing his appeal. Docket Nos. 90-93, 96-97. As an appeal  
11 is pending in this matter, to the extent Plaintiff intends to use such requests to move this Court for  
12 relief of some kind, this Court does not have the authority to grant such a motion absent a remand  
13 for the Court of Appeals. See Fed. R. Civ. P. 62.1(a). Moreover, Plaintiff has failed to comply with  
14 the Local Rules regarding written requests to the Court. Civil Local Rule 7-1, 7-9. Accordingly, this  
15 Court declines to consider these filings.

16 Plaintiff is directed to comply with the Local Rules in future filings with this Court. Absent  
17 further order from this Court, the Court will not consider any future filings from Plaintiff while the  
18 case is on appeal.

19 This order disposes of Docket Nos. 90-93, 96-98.

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21 IT IS SO ORDERED.

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23 Dated: March 13, 2013

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EDWARD M. CHEN  
United States District Judge  
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